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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,145	12/08/2003	Ming Hui Chen	VICT-01011US1	2310

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EXAMINER

TAKAOKA, DEAN O

ART UNIT	PAPER NUMBER
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2817

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,145	<b>Applicant(s)</b> CHEN ET AL.	
	<b>Examiner</b> Dean O. Takaoka	<b>Art Unit</b> 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7 and 10-15 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/17/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 3, 6, 7, 10, 11, 14 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 3, 9, and 10 of U.S. Patent No. 6,661,309. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 3 and 9 of U.S. Patent No. 6,661,309 recite all the limitations of claims 1 – 3 of the current application and in so far as can be understood, the limitations of claims 6, 7, 10, 11, 14 and 15 of the current application are recited in claims 1 – 3, 5, 9, and 10 of U.S. Patent No. 6,661,309.

### ***Claim Objections***

Claims 6, 10, 14 and 15 are objected to because of the following informalities:

With respect to claim 6, the limitations contained in the first and second paragraphs are duplicated or repeated where the intended meaning for the limitations

contained in the second paragraph is unclear because of the duplicated limitations. Accordingly, claims 10, 14 and 15 are also unclear as they depend directly or indirectly from claim 6.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 2 and 11 – 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 11 recite the limitation "a **low pass** waveguide section connected at substantially a **perpendicular** angle with the common waveguide section" in pages 11 and 13. There is insufficient antecedent basis for this limitation in the claim.

With respect to the disclosure and drawings (Figs. 3A, 3B and 6), the low pass waveguide section 204 lies along the same axis, e.g. "**on axis**" (0034 – page 5) with common waveguide section 200, therefore the low pass waveguide section 204 is only perpendicular to the high pass waveguide/s 202. The limitation of the claims contradict what is recited in the disclosure and drawings, thus there is insufficient antecedent basis for this limitation in the claims and the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Moheb (U.S. Patent No. 6,417,815), prior art cited in Applicant's IDS dated December 8, 2003.

Claim 1:

Moheb shows a multi-channel feed network (best illustrated in Figs. 3 and 5b) comprising: a common waveguide section (waveguide section 40 connected to port 42); a low pass waveguide section (shown as the corrugated section in waveguide 34 where waveguide 34 is the receive waveguide, where the receive signals are low frequency in comparison to the transmit signals, further where the corrugated filter section would inherently have the same functionality as the present invention as the corrugated section of Moheb is the same as the present invention) connected at substantially *and in so far as can be understood, "on axis"* angle with the common waveguide section, the low pass waveguide section (shown where waveguide section 34 is "on axis" angle with the common waveguide section 40), the low pass waveguide section comprising: waveguide having a cross section substantially matching a cross section of the common waveguide section (shown in Fig. 3); a band reject filter (comprising the corrugations of the low pass filter in the low pass waveguide section 34) formed with slots in the waveguide of the low pass waveguide section (corrugations shown) and; a high pass

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waveguide section (36) connected at substantially a perpendicular angle with the common waveguide section (where waveguide 36 is disclosed for the transmit signals, where the transmit signals are inherently at high frequency in comparison to the receive signals, thus being the high pass waveguide).

Claim 2:

Where the common waveguide section (40) comprises a circular waveguide (best shown in Fig. 5b where 40 is circular and in Fig. 3 where the entrance at port 42 is circular), where the low pass waveguide section comprises a circular waveguide (34 – Fig. 3), where the high pass waveguide section comprises a rectangular waveguide (36 shown in Figs. 3 and 5b).

### ***Allowable Subject Matter***

Claim 16 is allowed.

Khammouni et al. (Fig. 4) shows a waveguide device comprising a common waveguide (100) connected to a horn (i.e. horn antenna – col. 5, line 20) and four perpendicularly connected waveguides (60, 62, 64, 66) for passing Rx frequencies (col. 4, lines 42-45), but does not teach or suggest the four waveguide sections comprising high-pass waveguide sections or a low-pass waveguide section connected to an output of the common section opposing the antenna where Khammouni et al. teaches waveguide section 32 merely for impedance matching.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean O. Takaoka whose telephone number is (571) 272-1772. The examiner can normally be reached on 8:30a - 5:00p Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (571) 272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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February 23, 2005